

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:16-cr-221-MOC-DCK-1

UNITED STATES OF AMERICA

Vs.

ROBERT LESLIE STENCIL,

Defendant.

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ORDER

**THIS MATTER** is before the Court on Defendant's *pro se* Motion for Reconsideration of this Court's Order denying Defendant's Motion to Reduce Sentence. (Doc. No. 562).

Defendant's motion is denied for the reasons stated in the Government's opposing brief, and in the Government's brief in opposition to Defendant's motion for compassionate release.<sup>1</sup> See (Doc. No. 560). Specifically, Defendant purports to be suffering from various medical conditions, but he fails to provide any medical records or other records to corroborate this claim. Furthermore, the conditions he purports to have are not recognized by the CDC as conditions that heighten the risks posed by COVID-19. Defendant has not shown that the facility where he is detained is specifically unable to adequately manage COVID-19 or treat him should he contract the virus.

The Court notes, further, that since the start of the pandemic, Defendant has filed four

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<sup>1</sup> This Court denied Defendant's motion for compassionate release without prejudice on the basis that he failed to exhaust his administrative remedies with the BOP. Therefore, the Court did not address the merits of Defendant's motion. The Government argued that, even if Defendant had exhausted his administrative remedies, the motion should be denied on the merits.

motions seeking release based on his claim that he is at a higher risk of severe illness from COVID-19 because he suffers from Graves' disease (i.e., hyperthyroidism), hypertension, and heart disease. (Docket Nos. 486, 491, 492, 493, 534, 554). The Court considered and denied each of these four motions. (Docket Nos. Apr. 6, 2020 Text-only Order, 499, 538, 561).

Furthermore, and most significantly, Defendant was offered the COVID-19 vaccine on March 11, 2021, and he refused to receive it. (Doc. No. 566-1). This Court and others across the country have held that an inmate's denial of a COVID-19 vaccination weighs against a finding of extraordinary and compelling circumstances based on COVID-19. See, e.g., United States v. Patterson, No. 3:03-CR-37-MOC, 2021 WL 1553824, at \*3 (W.D.N.C. Apr. 20, 2021).

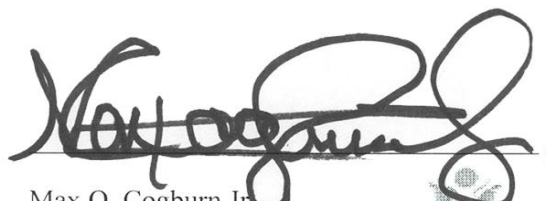
Even if Defendant could demonstrate an "extraordinary and compelling reason" (which he cannot), the Court would still deny his motion because he poses an ongoing danger to the community. The Court already decided that, if released, Defendant poses a significant threat to his wife and former co-defendant, Ludmila Stencil, based on domestic violence allegations. (See Doc. No. 487, Sept. 27, 2019 Tr. at 20-21; Apr. 6, 2020 Text Order).

Having thus considered defendant's motion and reviewed the pleadings, the Court enters the following Order.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that defendant's *pro se* Motion for Reconsideration (Doc. No. 562), is **DENIED** without prejudice.

Signed: July 22, 2021

  
Max O. Cogburn Jr.  
United States District Judge